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14 TESLA, INC. and ELON MUSK

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION

18 AARON GREENSPAN,

19 Plaintiff,

20 v.

21 OMAR QAZI, SMICK ENTERPRISES, INC.,
22 ELON MUSK, and TESLA, INC.,

23 Defendants.

Case No. 3:20-cv-03426-JD

**TESLA DEFENDANTS' OPPOSITION TO
PLAINTIFFS' ADMINISTRATIVE MOTION TO
ENLARGE TIME FOR FILING FOURTH
AMENDED COMPLAINT**

(Civ. L.R. 6-3, 7-11)

Trial Date: None Set
Date Action Filed: May 20, 2020

Defendants Elon Musk and Tesla, Inc. (collectively, “Tesla Defendants”) respectfully request that the Court deny Plaintiff’s administrative motion to extend the deadline for filing his prospective Fourth Amended Complaint until August 13, 2021 (“Motion”). *See* Plt’s. Admin. Mot. to Enlarge Time for Filing Fourth Amended Complaint Pursuant to L.R. 6-3 and 7-11, ECF No. 126. This Opposition is based on the arguments herein, the papers on file with the Court, and the concurrently-filed Declaration of Aarti Reddy (“Reddy Decl.”).

First, although the Tesla Defendants do not oppose a brief extension of the deadline for Plaintiff to file his Fourth Amended Complaint (“4AC”), the Tesla Defendants were not aware that Plaintiff planned to seek an extension through August 13, 2021. *See* Reddy Decl. ¶ 3. When Plaintiff contacted the Tesla Defendants’ counsel on June 24, 2021, he requested their consent to “pushing th[e] deadline back a week or so.” ECF No. 126-1 at 7; Reddy Decl. ¶ 2. The Tesla Defendants do not agree that the *In re Tesla Motors, Inc. Stockholder Litigation* proceedings in the Delaware Court of Chancery are relevant to Plaintiff’s proposed 4AC, but they reiterate their initial response to Plaintiff that “they do not object to a one week extension to July 23.” ECF No. 126-1 at 7.

Plaintiff’s proposed deadline of August 13, 2021, by contrast, would significantly prejudice the Tesla Defendants by requiring their counsel to brief the reply in support of a motion to dismiss Plaintiff’s 4AC on the eve of trial in another complex matter. Pursuant to Plaintiff’s proposal and barring any further scheduling order from this Court, the Tesla Defendants’ response to the proposed 4AC would be due on August 27, 2021. Fed. R. Civ. P. 15(a)(3). Should the Tesla Defendants move to dismiss the 4AC, Plaintiff’s opposition to such a motion would be due on September 10, 2021, with the Tesla Defendants’ reply due on Friday, September 17, 2021. N.D. Cal. Civ. L.R. 7-3.

All three of the Tesla Defendants’ attorneys of record are scheduled to appear at trial in a securities class action currently due to begin the following Monday—September 20, 2021—and last until October 25, 2021. *See* Reddy Decl. ¶¶ 5-6; *In re Twitter, Inc. Securities Litig.*, No. 4:16-cv-05314-JST, ECF No. 567 (N.D. Cal. Sept. 9, 2020). It would present a substantial hardship for the Tesla Defendants’ counsel to brief a reply in support of the motion to dismiss just days before

1 this long and complex trial begins. *See* Reddy Decl. ¶ 7.

2 **Second**, Plaintiff's stated justification for an extension through August 13, 2021 is
 3 unfounded. Plaintiff's Motion fails to demonstrate that the *In Re Tesla Motors* proceedings are
 4 relevant to his 4AC. Plaintiff instead contends without elaboration that "[t]he testimony during
 5 and/or outcome of the Delaware Trial may further impact the Court's consideration of Tesla, Inc's
 6 and Elon Musk's scienter." Mot. at 2. In any event, Plaintiff is incorrect that "it is unclear whether
 7 transcript materials will be immediately available and accessible" for the *In re Tesla Motors*
 8 proceedings. Mot. at 2. The Delaware Court of Chancery will provide "certified verbatim
 9 transcripts of those proceedings as requested by attorneys, litigants or the public,"
 10 including on a "same day/next day" basis. *Official Court Transcripts*, Delaware Courts,
 11 <https://courts.delaware.gov/help/transcripts.aspx>. Plaintiff will thus suffer no "substantial harm or
 12 prejudice" from any delay in obtaining transcripts. N.D. Cal. Civ. L.R. 6-3(a)(3).

13 For the foregoing reasons, the Tesla Defendants respectfully request that the Court deny the
 14 Motion to the extent it seeks an extension to file the proposed 4AC until after July 23, 2021.

15 Dated: July 6, 2021

COOLEY LLP

17 By: /s/ Aarti Reddy
 18 Aarti Reddy

19 Attorneys for Defendants
 20 Tesla, Inc. and Elon Musk

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